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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2011-12

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on Insurance and Housing...

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



- Louise Genge
- Barb Miller
- Bob Miller
- Millie Ben, Janesville
- Kayla Klass
- Edith Gamble
- Regina Bartkowski
- Tony Driessen, Madison — WI Assn of Health Underwriters
- James Bartkowski
- John Badow
- Lisa Meyer
- Jack Poland
- Roger Stenberg
- Marcia Stenberg
- Theresa Gamble
- Rep Robin Vos — Assembly
- Margaret Grottke
- Bill Elmhorst
- Stephen Grottke
- Ross Brown
- Shirley Papke
- Louise Genge
- John Badow
- Sharon Fredenberg

Registrations Against

- Adam Korbitz — State Bar - Public Interest
- Sen Jon Erpenbach — Senator

Registrations for Information Only

- None.

February 15, 2012

**EXECUTIVE SESSION HELD**

Present: (6) Senators Lasee, Schultz, Olsen, Wanggaard, Carpenter and C. Larson.

Absent: (1) Senator S. Coggs.

Excused: (0) None.

Moved by Senator Schultz, seconded by Senator Wanggaard that **Senate Joint Resolution 21** be recommended for adoption.

Ayes: (4) Senators Lasee, Schultz, Olsen and Wanggaard.

Noes: (2) Senators Carpenter and C. Larson.

Absent: (1) Senator S. Coggs.

ADOPTION RECOMMENDED, Ayes 4, Noes 2

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Tony Urso  
Committee Clerk

SSR 21 - printed contract for me

### Vote Record Committee on Insurance and Housing

Date: 2/15

Moved by: Schulte

Seconded by: Wanggaard

AB \_\_\_\_\_ SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:  
 Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Senator Frank Lasee, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dale Schultz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Luther Olsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Van Wanggaard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Spencer Coggs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Chris Larson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>4</u>	<u>2</u>	<u>1</u>	<u>    </u>

Motion Carried       Motion Failed



Testimony of Timothy Dake to the Senate Committee on Housing and Insurance on October 11, 2011

Regarding Senate Joint Resolution 21

Thank you Chairman Lasee and Senators for the opportunity to address this committee. I am making this statement today adamantly in favor of SJR-21.

This legislation addresses several important points within the health care issue including responsibility, both personal and communal, personal choice, personal freedom, the state of Wisconsin's economy and civil rights. Other than the present economic hardship afflicting our state, no issue presently dominates our political discourse more than that of health care reform.

Few would argue that reform is not needed in the area of health care economics, how we afford payment for services through insurance and in the structure of fee schedules. But the universal, one size fits all approach of a government run health care plan fails to address the widely varying needs of a diverse population. No bureaucrat can effectively decide what is best for a particular individual – only that individual can make the appropriate decision for themselves and their family as to what type of insurance coverage is best for them. The diversity of personal situations involving affordability, family size, needs, health history and countless other variables can only be adequately met by the variety of options provided by an active and vibrant free market.

The private companies and free markets have served us well and will continue to do so. For the entire 163 years of our state's existence, it has been the province of the state government to regulate insurance and our past legislatures have produced programs such as Badgercare to protect our citizens when they have been unable to secure insurance through the private companies. SJR-21 does not limit programs such as Badgercare, Tricare, Medicare, Medicaid, CHAMPUS, Indian Health Service and many others, much to the contrary, it preserves these programs and the options that they provide to Wisconsinites. The resolution actually guarantees and expands access to these programs.

Under this amendment, Wisconsinites will still have the option to participate in government health insurance programs such as Badgercare or Obamacare. With this amendment, we will retain the right to participate in employer provided health insurance or to self-insure or to purchase insurance of our own choice. This legislation simply protects our right to participate as we, as responsible individual adults, believe appropriate.

Restricting choices and eliminating competition increases costs, reduces availability of services, extends wait times, causes overutilization and puts Wisconsinites out of work. Our state is home to numerous health insurance companies. They employ tens of thousands of Wisconsinites. Since the passage of the Patient Protection and Affordable Care Act, thousands of our fellow Wisconsin citizens have lost their jobs due to the imposition of federal government regulations that are directly responsible for eliminating entire product lines and departments of our domestic health insurers. Milwaukee County is home to several insurance firms. Committee members, Senators Carpenter, Coggs and Larson represent

districts in Milwaukee County. Gentlemen, the job losses that these firms have experienced have affected many of your respective constituents. The jobs being displaced are not minimum wage jobs; they are high paying, white collar, often professional jobs and they are irreplaceable in this economy. In addition to the jobs lost at the insurance companies, there are hundreds of other jobs displaced in the independent insurance agencies throughout our state. While SJR-21 will not necessarily create jobs, it will work to stem the continued loss of jobs by our fellow citizens. Clearly, this pro-jobs resolution falls in line with the purposes and responsibilities of the Legislature's special session for jobs.

If consumers control the expenditure of their health insurance dollars, they make the health care decisions. For this purpose, SJR-21 will block legislation that restrains freedom of choice of a private health plan, and it will also block legislation that interferes with a person's right to pay directly for lawful medical services. These provisions will not only preserve the rights of individuals to make their own health care choices, but they will also allow patients to maintain access to health services. It has often been said elsewhere that "access to a waiting list is not access to health care."

SJR-21 will also re-establish the balance of federalism and the primacy of the private health care relationship. The states have historically regulated the health insurance industry as intrastate trade and this was affirmed by the passage of the McCarran-Ferguson Act of 1945. This view has been reaffirmed by numerous US Supreme Court rulings over the last half century. In 1965, the Court ruled in *Griswold v. Connecticut* that "we have recognized that the special relationship between patient and physician will often be encompassed within the domain of the Due Process Clause." In a concurring opinion for *Doe v. Bolton*, Justice William O. Douglas in 1973 spoke of "the right to seek advice on one's health and the right to place reliance on the physician of one's choice." The Court explored the "structure and limitations of federalism" in ruling on *Gonzales v. Oregon* in 2006 noting that "the states have great latitude in regulating health and safety, including medical standards, which are primarily and historically a matter of local concern." Our US Supreme Court has recognized the province of the states over health care and insurance. The right and responsibility for regulation and oversight of the industry in Wisconsin rests with our Wisconsin Legislature. As citizens, we look to you, our senators, to protect our long and well established rights in this area.

It is a precious right to control one's own medical affairs and how one affords that care. These essential rights can and should be preserved, and the Health Care Freedom Amendment will do exactly that. By constitutionally guaranteeing all Wisconsinites' right to choice in healthcare, you are formally codifying what has worked and has been taken for granted for over a century and a half, and that is, that adults in Wisconsin are best suited to make decisions in their own best interest. Those decisions are predicated on the availability of choices and on the recognition of a civil right to make our own decisions and to direct our own lives. Gentlemen, this is exactly what we are asking of you in passing SJR-21, to recognize and formally expand protection of our civil rights to include the right to choice in health care and insurance.

Thank you again for the opportunity to speak to you today.

Timothy Dake, 3286 W. Plaza Dr., Franklin, WI



Testimony of Larry Gamble  
Before the Wisconsin State Senate Committee on Insurance and Housing  
11 October 2011 – Room 411 South – Capitol Building

Chairman Lasee and members of the committee, good afternoon, and I thank you for the opportunity to address you regarding Senate Joint Resolution (SJR) 21 today.

I am Larry Gamble, a retired US Air Force, Lieutenant Colonel and a disabled veteran from Franklin, Wisconsin. I am testifying as a concerned citizen supporting SJR 21.

I was medically retired from the US Air Force in 2008 because of a serum reaction to the Anthrax vaccination. This adverse event ended a promising military reserve career right about the time I was being considered for promotion for Colonel.

In the military, there are certain risks that come with the career but when there is a medical event, combat injury or other issue; our veterans expect military medicine to patch us up and hopefully make us whole. For the most part, this system works for the military members but help is needed for their families. In addition to its regional medical centers, the military has its TRICARE insurance for service members and their families to get medical care in the private sector.

While I was on active duty and trying to beat the vaccine reaction; I was a patient at Walter Reed Medical Center, Great Lakes Naval Base, and the VA Medical Center in Milwaukee. Overall, the level of care was acceptable. In fact, the Veterans Administration hospitals used to be the target of disparaging jokes that usually ended with a comment about the VA being a place where veterans go to die. Fortunately, partnerships with teaching hospitals, changed for the better. Other things that have change for the better are private sector initiated advances in medicine which enable many veterans to overcome devastating injuries. But, the key is how the government is adopting private sector advances

At Walter Reed, even with its huge consolidation of care givers, there is still outsourcing to private sector specialists. The Department of Defense and most veterans already know that the government cannot provide all the care for all of its members on active duty and retired. This is what prompted the family coverage years ago with the TRICARE insurance program. Yet, this expanded coverage is exactly what a single payer healthcare system attempts to mimic. It ends up rationing or delaying care.

As a Lieutenant Colonel and a commanding officer when my medical problems started, I was able to demand care in accordance with the regulations even when the bureaucracy of government run system attempted to stall my treatment options. When referred to private sector doctors, I received exceptional treatment. My experience demonstrated that the government's current system is overloaded already and cannot always provide exceptional care. This is why SJR 21 and preserving choice is important.

At the end of my military career, I had to take an unprecedented step for a senior officer and I filed a Congressional Inspector General complaint to force the US Air Force to follow its own regulations. Because my experiences, I support SJR 21 and the right of citizens to have choice in their health care.

I urge your committee to support SJR 21. This protects the citizen's rights and freedom to choose what is best for them and their family.

If someone qualifies for a government program, they are free to choose that option.

If the person wants to self insure, pay their own medical bills or they do not want to be dependent on anyone or any agency to help with medical care; that person has the freedom to choose that option.

If someone has a good insurance company or their work provides exceptional medical benefits, they have the freedom to choose that option.

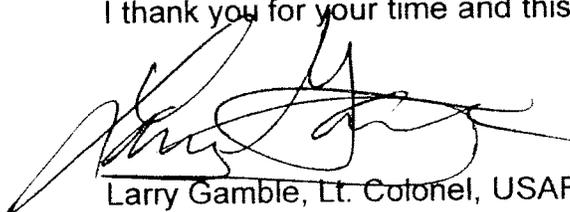
My medical condition is a result of government health care which is not meant to dig at that system because medical mistakes also happen in the private sector. In fact; both limit certain treatments and some are prohibited. With the TRICARE system for example, Urgent Care facilities which are a faster, more convenient and less expensive alternative to an emergency room are not covered by TRICARE, the government's insurance program for the military.

SJR 21 is all about freedom of choice in our health care. Choice of provider, choice of payment mechanism and choice of accepting government aid or not; that is what is "just" for all citizens. Wisconsin has a robust Insurance industry with several companies headquartered here and tens of thousands of people employed by these companies.

Sadly, without freedom of choice, these companies loose customers when the government steps in with increased regulations and mandates that force people into specified programs. My friends in the insurance industry are already relaying horror stories about downsizing due to federal regulations and prohibitions that started phasing with the Affordable Healthcare Act of 2009. This is the new reality of the industry. Good people are losing jobs and citizens are losing their right to self determination.

That is the point of my testimony; supporting SJR 21 means preserving choice in healthcare and greater freedom for all citizens to get healthcare that fits their needs. I've experienced single payer healthcare where choices are limited. It gives you an appreciation for our free market, private sector healthcare system.

I thank you for your time and this opportunity to speak today in support of SJR 21.



Larry Gamble, Lt. Colonel, USAF (Retired)



# The Wisconsin 9/12 Project

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October 11<sup>th</sup>, 2011

**Attention:** Members of the Senate Committee on Insurance and Housing  
Senator Frank Lasee, Chair; Senator Dale Schultz, Vice-Chair  
Senator Luther Olsen; Senator Van Wanggaard; Senator Tim Carpenter; Senator Spencer  
Coggs; Senator Chris Larson

**Re:** Support for Senate Joint Resolution 21, "The Health Care Freedom Amendment"

Chairman Lasee and Honorable Members of the Committee:

Thank you for holding this hearing on SJR 21, "The Health Care Freedom Amendment."

Many others will undoubtedly submit to you a plethora of statistical information related to health care, health care coverage, health care costs, and the like. By contrast, my testimony focuses simply on principles. Specifically, I want to bring to your attention the matter of the Enumerated Powers Clause and the 9<sup>th</sup> and 10<sup>th</sup> Amendments to the United States Constitution and how this proposed amendment to our state constitution aligns with these portions of what—despite gross abuses—remains the highest law in the land.

We all know that our Founding Fathers fought a war in the Eighteenth Century. However, too many have forgotten precisely why they fought that war. To paraphrase the Declaration of Independence, our Founders had determined to free themselves from the shackles of a tyrant who, until they emphatically said, "No more!" could tell them *what* to do, *when* to do it, *how* to do it, and just how much of their livelihoods they would *pay him* for the pleasure. In short, they fought for their liberty...and for ours.

After our Founders bravely freed themselves from that tyranny, they had two long and spirited discussions about how to ensure that the new government they'd created would not evolve into the kind of despotism they'd just thrown off. During the first, that which yielded the initial text of the United States Constitution, they listed out, and *thereby limited*, the specific powers to which the federal government could lay claim. Two years later, in a second extended discussion, the Founders added a Bill of Rights, describing ten unalienable rights upon which government had no prerogative to infringe.

Unfortunately, one small phrase in our federal constitution has been used, perhaps more than any other, to undermine the purpose of our Founders' extraordinary and historic work: the General Welfare Clause. To the chagrin of many and the detriment of all, the compromise in liberty resulting from misapplication of that clause has <sup>been</sup> tremendous, and our federal government has wrongly gained more and more authority.

Consequently, today we stand at a crossroads at which we must now wonder if liberty will survive.

Nationalized health care, too, has been repeatedly justified by its advocates as constitutional under the General Welfare Clause. Let us examine that claim on historical fact and clear principle.

"General Welfare" was a favorite concept of Alexander Hamilton, a lover of big government who grasped all the ways in which claims of "public good" could cloak the bilking of taxpayers to his own advantage. Repeated references in his writings to "the public good," "the general good" and other similar phrases make Hamilton sound terribly benevolent. But the most rudimentary research reveals that the policies he advanced under such pretense always left him richer and more powerful, while taxpayers grew poorer and less free. Hamilton would've adored the idea of government-run healthcare—the control it offered over people and the ways in which he could profit from it. He loved the idea of government everything.

Other founders, who valued the ideals of liberty over government control and parasitic enrichment schemes, stated unequivocally in their writings that the General Welfare Clause was never meant to be stretched and abused in the ways that Hamilton and his modern-day followers have advocated. In an opinion written on 15 February 1791, Thomas Jefferson wrote that to consider the General Welfare Clause as giving a distinct and independent power to do any act that the government might consider “for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless.” He continued:

It would reduce the [Constitution] to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the U.S. and as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they pleased... Certainly no such universal power was meant to be given them. It was intended to lace them up straitly within the enumerated powers.

Jefferson ended by noting that such a prospect had been entirely rejected by the authors of the Constitution.

In an 1817 letter to the House of Representatives, regarding a proposed public works bill, James Madison wrote similarly of the General Welfare Clause:

To refer the power in question to the clause "to provide for common defense and general welfare" would be contrary to the established and consistent rules of interpretation, as rendering the special and careful enumeration of powers which follow the clause nugatory and improper. Such a view of the Constitution would have the effect of giving to Congress a general power of legislation instead of the defined and limited one hitherto understood to belong to them

These are not the only such clarifications that the limited powers established in Article I, Section 8 of the Constitution were hard and fast. Research strongly demonstrates that—Alexander Hamilton aside—our Founders meant to tie the General Welfare Clause *directly to* the Enumerated Powers Clause. Though Hamilton loved to claim that there were additional implied powers, there simply *were* none. There still *are* none. There are only those powers listed, and a clause that has been sorely twisted at great expense for the sake of agendas that do not meet the test of liberty set by Jefferson, Madison, and other wise individuals, all of whom saw through the ruses of tyrants and charlatans.

Concerning the matter at hand today, nothing in the Enumerated Powers Clause gives the federal government the right to intervene in private health care decisions of any kind, whether related to treatment or insurance coverage. It is that simple. But if that fact is not enough to persuade, consider the 9<sup>th</sup> Amendment, which states: “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others *retained by the people.*”

The Constitution limited government power, but it expanded rights. The writings of Jefferson and Madison make clear that there were no implied government powers in the Constitution. But the 9<sup>th</sup> Amendment indicates that there are additional rights...rooted in natural law, bestowed by God, and thus unalienable.

The right to live as an individual—to make personal choices about my life, my health, my expenditures, and many other matters besides—certainly qualifies as an unalienable right, one repeatedly echoed and strongly implied throughout the Constitution. The 9<sup>th</sup> Amendment makes plain that *that right shall not be denied.*

Still, those in power in our federal government seem intent on denying my individual rights concerning my health care choices. Sadly, I have no guarantee that a new administration will be any more constitutionally rooted, as the plain language of our founding document has long been ignored by those in Washington, D.C.

It is for precisely this reason that the Founders set down in the 10<sup>th</sup> Amendment a corollary to the Enumerated Powers Clause and the 9<sup>th</sup> Amendment. It states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

The 10<sup>th</sup> Amendment, then, describes the states respectively as sovereign entities with the power to legislate on behalf of their own citizens. Moreover, this amendment strongly suggests a solemn responsibility on the part of those sovereign states: When the enumerated powers are violated, a sovereign state, such as Wisconsin, has a *duty to interpose* between its citizens and the federal government.

Therefore, I am here today to request not only for myself but also on behalf of hundreds of members of the Wisconsin 9/12 Project living in districts across this state, that the State of Wisconsin now perform its solemn duty in relationship to federal overreach on the issue of health care. Move this proposed amendment forward to its first floor vote in order to advance the preservation of private choice for all Wisconsinites.

Do not passively rely on federal court cases or repeal.

Instead, take action and exercise the sovereign power of this state under the 10<sup>th</sup> Amendment.

Tell the federal government that Wisconsin says, "*No!*"

Move SJR 21, "The Health Care Freedom Amendment" forward to its first floor vote.

*Interpose.*

I thank the members of this committee for taking my testimony into consideration. Along with all of the members of the Wisconsin 9/12 Project, I look forward to seeing how you will proceed.

Sincerely,



Kirsten E. Lombard  
Organizer, The Wisconsin 9/12 Project  
201 N. Paterson St., Apt. 2  
Madison, WI 53703  
Ph. 608.237.7034



October 11, 2011

Annette Olson  
1373 280<sup>th</sup> St.  
Glenwood City, WI 54013

Written Testimony in **Favor of SJR-21**  
Wisconsin HealthCare Freedom Amendment

I am providing my testimony in favor of this bill since I believe it is my choice to contract for goods and services guaranteed to me already by the Constitution of the State of Wisconsin.

WI State Constitution ARTICLE I. DECLARATION OF RIGHTS

**Equality; inherent rights.** SECTION 1. [*As amended Nov. 1982 and April 1986*]  
All people are born equally free and independent, and have certain inherent rights; among these are life, **liberty** and the pursuit of happiness; to secure these rights, **governments are instituted, deriving their just powers from the consent of the governed.**

**liberty:** the quality or state of being free: *a* : **the power to do as one pleases** *b* : freedom from physical restraint *c* : **freedom from arbitrary or despotic control** *d* : **the positive enjoyment of various social, political, or economic rights and privileges** *e* : **the power of choice** (Merriam Webster Dictionary)

Liberty means we the people have the right of choice.

Liberty therefore provides security to Wisconsin citizens that they cannot be subject to purchase any goods or services they do not desire.

Governments have not received the consent of the governed to mandate the purchase of anything.

I thank you for taking my testimony and for taking the steps necessary to return control back to the people.







**Wisconsin**

**Statement Before the  
Senate Committee on Insurance and Housing**

**By**

**Bill G. Smith  
State Director  
National Federation of Independent Business  
Wisconsin Chapter**

**Tuesday, October 11, 2011  
Senate Joint Resolution 21**

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Mr. Chairman, members of the Committee, thank you for the opportunity to appear before the committee, and to share some remarks in favor of adoption of Senate Joint Resolution 21.

It has been one year since passage of the Patient Protection and Affordable Care Act (PPACA, ObamaCare), but instead of celebrating the anniversary, small business owners are bracing for higher costs, more rules, more complex regulations, and less choice and less flexibility in the private marketplace.

According to a new study by NFIB's Research Foundation, the overwhelming majority of small business owners do not expect the new law to reduce costs or the regulatory burden, and nearly two-thirds agree that the law will increase health insurance premiums but not improve the quality of health care.

This study confirms what small business owners have been saying all along – the federal health care reform act is a fatally flawed solution that they do not want and cannot afford and that's why 93 percent of our members agree Congress should repeal the law.

At the same time small business owners are being encouraged to create jobs, the federal health care reform law is creating the uncertainty that shackles our job creators. Small business owners will tell you they are suffering a crisis of confidence that prevents them from hiring and expanding.

How do they move forward with job creation when the unknown costs and economic uncertainties of public policies stand in their way.

Statement Before the Senate Committee on Insurance and Housing on SJR 21 – continued  
By Bill G. Smith, NFIB  
Page Two

While we understand amending the state's constitution to be a serious action, we believe the stakes are high, and we simply must do what is necessary to restore an atmosphere of certainty and confidence to get our economy growing and people working.

We do not accept the status quo when it comes to the cost and availability of health care. Health care costs, under the status quo, will lead to a loss of 178,000 small business jobs, \$834 billion in small business wages, and \$52.1 billion in profits, according to estimates.

Our small businesses remain deeply concerned that health care costs too much.

We need solutions – not government programs, new taxes, new mandates and new regulations – all policies that fail to reduce the cost of health care, and all policies that stifle the ability to hire, grow and invest – key components that are necessary to move the economy of our state forward.

We support SJR 21 because it restores the responsibility for solving the health care crisis for private employers and their employees in the private sector.

That's why NFIB and 26 states have asked the United States Supreme Court to determine the constitutionality of the Patient Protection and Affordable Care Act, and we are hopeful the Act will be overturned.

In the meantime, **I hope members of the committee will support adoption of Senate Joint Resolution 21.**

Thank you.



# WISCONSIN STATE LEGISLATURE



**Joint Survey Committee on Tax Exemptions**  
Tuesday, October 11, 2011

1. Strike the gavel and call the public hearing to order.
2. Ask the clerk to call the roll. If someone is missing, indicate that the roll will be held open.
  - State that Public Member Kimberly Shaul will be absent but excused. She is in San Francisco on business.
3. Move into testimony. *(Make sure Jason Calotta from WMC goes last)*
4. Once testimony is finished, note any who have "registered".
5. Adjourn the public hearing.
6. Strike the gavel and call the executive session to order. Ask the clerk to call the roll.
7. Note that everyone should have received a copy of the preliminary report of the committee and ask if there are any questions. Questions may be referred to Legislative Council attorney Scott Grosz.
8. Recognize Rep. Knodl for a **motion** (and a second) on Senate Bill 203.
9. Discussion
10. Ask the clerk to call the roll on the motion.
11. Announce the results of the motion.
12. Recognize Rep. Knodl for a **motion** (and a second) on Assembly Bill 277.
13. Discussion
14. Ask the clerk to call the roll on the motion.
15. Announce the results of the motion.
16. Since no other business is pending, adjourn Executive Session and strike the gavel.

# NOTES ON THE CONDUCT OF PUBLIC HEARINGS

## I. CALL TO ORDER AND ROLL CALL

### A. Call the meeting to order:

1. Strike the gavel, both to bring the room to order and to notify WisconsinEye that the meeting has been convened.
2. Ask members and visitors to take their seats.

### B. Call the roll:

1. Ask the clerk to call the roll.
2. If members are missing but expected, you may want to announce that you will hold the roll open and that the clerk will note the presence of members as they arrive.

## II. OPENING REMARKS

### A. Welcome members of the public and thank them for coming to present their testimony.

### B. You may want to request that committee members and visitors set cell phones to vibrate only.

### C. Information you *may* want to provide (all optional):

1. The purpose of the hearing, especially if there is a special purpose, such as a briefing. For routine hearings on bills or rules, this may not be necessary.
2. The order in which bills, rules, or appointments will be heard, especially if you will deviate from the order on the meeting notice.
3. Your plans regarding executive action that day, i.e., that you plan to exec. certain items or that you do not plan to take executive action on anything.
4. How long you expect the hearing to last and whether you plan to break for lunch (seldom done).
5. Whether WisconsinEye is recording the hearing (though it will be fairly obvious if WisconsinEye is present).

### D. Describe the operation of the hearing.

1. Inform people how to register to speak and that they may register a position without speaking.
2. You may want to announce the general order in which you will call speakers.

3. In long hearings, you may want to offer to speakers who have come a long distance or have other unavoidable obligations (e.g., a plane to catch or cows to milk) the opportunity to speak early.
    - a. Tell them to notify the clerk.
    - b. Use this judiciously, or people will start taking advantage.
  4. If you intend to limit the length of testimony, you may want to announce that at the outset.
  5. You may want to instruct speakers to give written testimony to the messenger only when they are called to speak, to avoid the distraction to the members of receiving handouts during other speakers' testimony.
- E. If multiple hearings are going on at the same time, you may want to apologize to the public for the empty seats. Explain the situation and assure the public that each member will try to be present to hear at least some of the testimony; that staff of the missing members are present and taking notes; and that all members will receive copies of all written testimony.

### III. THE HEARING

- A. The clerk sorts the hearing slips for each topic; you may use any order you choose, but a typical order is:
1. Author.
  2. Agency staff.
  3. A principal speaker in opposition.
  4. Other speakers who offer particularly valuable information or points of view.
  5. Remaining speakers, alternating for and against.

Note that this order ensures the committee hears a broad and fairly deep body of testimony early in the hearing.

- B. Call speakers in the order of the sorted slips.
- C. When a speaker is through, ask the committee members if they have any questions or pose any questions that you have.
- D. When the clerk gives you the last slip for a particular topic, announce this and indicate that anyone else wanting to speak should submit a hearing slip at that time.

### IV. ADJOURNMENT

- A. Thank all those who came, once again, and if it has been a long hearing, thank those who stayed until the end for their patience.
- B. Declare the meeting adjourned, striking the gavel.

V. UNWRITTEN RULES AND COMMON PRACTICES (many are optional):

- A. The chair is in charge. The application of all rules and procedures is ultimately at the discretion of the chair. Exercise this discretion judiciously.
- B. The chair mediates all discussion and questioning is with the permission of the chair. Chairs vary in how strictly they observe this rule.
- C. Anyone present may register to testify, unless the hearing notice specifically states that testimony will be taken from invited speakers only.
- D. Members of the public may speak only when called to testify or if given express permission by the chair (uncommon).
- E. Only committee members may ask questions of the speakers.
- F. Speakers do not ask questions of the committee or committee staff.
- G. Legislative Council staff generally answers questions from the chair or committee members, and asks questions of speakers only at the request of or with the permission of the chair.
- H. Public demonstrations of support or opposition to any proposal, any individual, or anything that is said in a hearing is *not* permitted. This is necessary in order to maintain decorum and to provide a neutral setting in which people of all viewpoints may present testimony without intimidation. This rule is strictly observed.
- I. Speakers are asked to summarize their remarks, rather than reading from written statements. This promotes direct interaction between a speaker and the committee and, as a result, better communication. (Note: Making eye contact with a speaker encourages the speaker to talk rather than read.)
- J. Speakers are asked to avoid repeating previous speakers.
- K. In long hearings, you may set a time limit for speakers (3 minutes is common). Apply this rule fairly:
  - 1. When to impose the rule:
    - a. You may want to hear full presentations by principal speakers for and against before you set a limit on testimony.
    - b. Beyond that, it is best to impose the limit early in the hearing, not after a minority of those wishing to speak have already taken several hours of the hearing.
  - 2. Questions and answers can take a speaker far beyond a 3-minute time limit. This can be very useful, but it can be abused, as well.
- L. In long hearings, you may ask committee members to limit their questioning of speakers.

- M. Committee members are to ask questions, not engage speakers in debate. Rhetorical questions and debating speakers is a common tendency, and chairs vary in how much of it they will tolerate.
- N. Questions generally follow testimony, but members may interrupt speakers with the chair's permission. Chairs vary in what they allow.
- O. Keep in mind that how you conduct your committee will influence how the Legislature is viewed.
  - 1. All participants – members, agency staff, lobbyists, and other citizens – will expect you to give them equal treatment, regardless of their political affiliations or opinions.
  - 2. When private citizens appear before your committee, you may want to consider:
    - a. They are giving their time without compensation to participate in government and to help inform your committee.
    - b. Attendance at your hearing may be the only direct contact with the Legislature they ever have.
    - c. They may be nervous; you may want to do what you can to put them at ease.

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